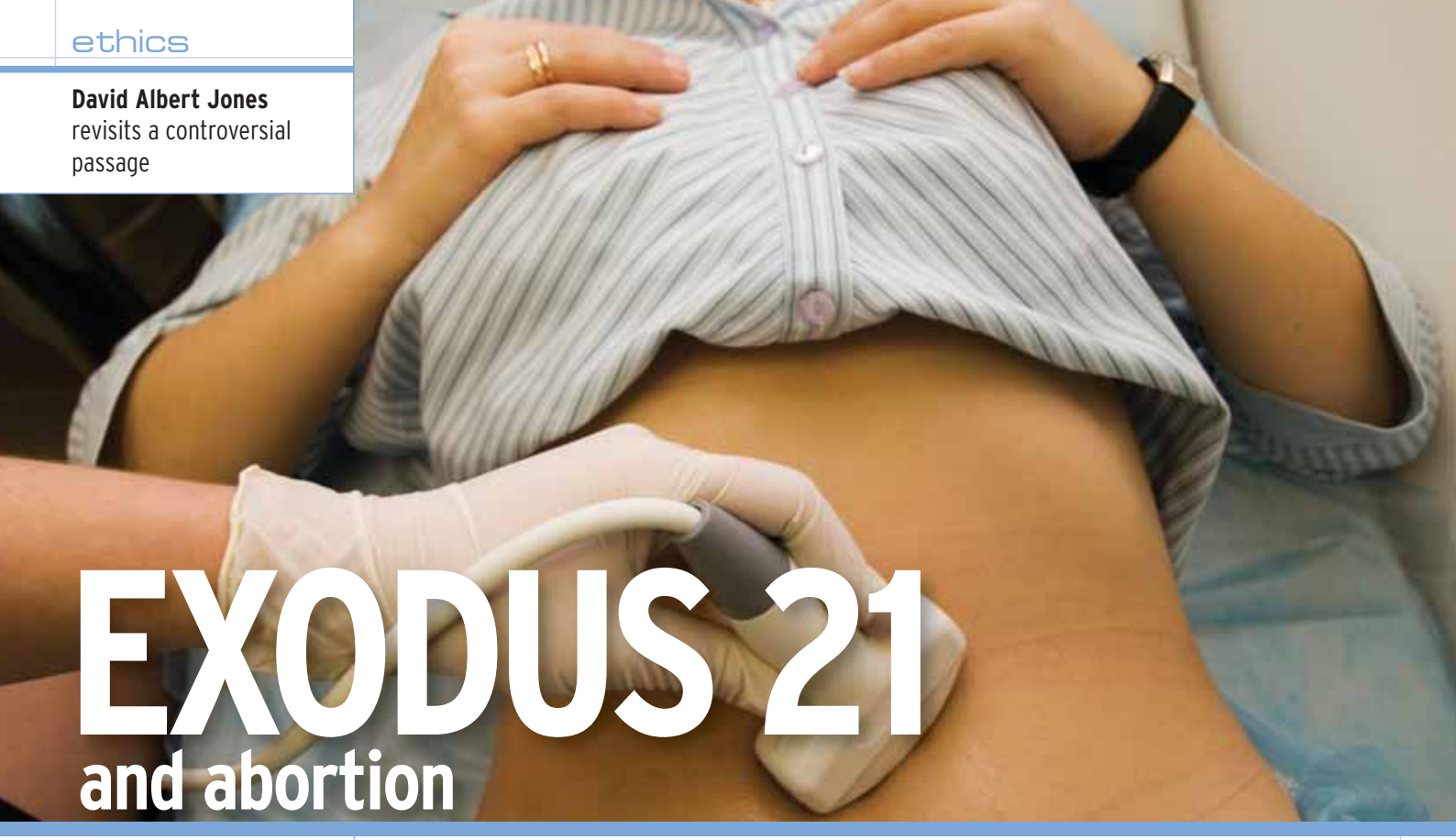
David Albert Jones
revisits a controversial passage



EXODUS 21
and abortion

key points

While the word 'abortion' does not appear in any translation of the Bible, the Scriptures almost always have more to say on a question than we realise.

Traditional interpretations of Exodus 21:22-25 are reviewed and the author concludes the passage refers to harm to both mother and child.

More importantly, he emphasises how in the face of a dramatic rise in abortion numbers, contemporary theologians now draw attention to a wealth of other relevant Scriptures.

What does the Bible say about termination of pregnancy? Those in favour of a legal right to elective termination often argue that 'the Bible is silent on the subject of abortion'.[1] 'The word "abortion" does not appear in any translation of the Bible!'[2] Nevertheless, it is a mistake to suppose that where the Scriptures are not explicit on a question they have nothing to say. The Scriptures almost always have more to say on a question than we realise.

A controversial passage

In relation to abortion, perhaps the single most discussed Bible passage has been Exodus 21:22-25. The English Standard Version provides a good literal translation:

When men strive together and hit a pregnant woman, so that her children come out [yatsa], *but there is no harm* [ason], *the one who hit her shall surely be fined, as the woman's husband shall impose on him, and he shall pay as the judges determine. But if there is harm, then you shall pay life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn for burn, wound for wound, stripe for stripe.*

This passage contains a key ambiguity that becomes apparent if we ask the questions: 'no harm' to whom? Is the punishment of 'life for life' imposed only for harm to the woman? Or is it also imposed for harm to her children?

Harm only to the woman?

The Revised Standard Version translates 'her children come out' with the phrase 'there is a miscarriage'. This implies that the 'harm' refers only to the woman. This is explicit in the New Jerusalem Bible: 'she suffers a miscarriage but no further harm is done'. On this interpretation the death of the unborn child merits a 'fine' but *further* harm to the mother merits 'life for life'. In favour of this interpretation is the witness of Josephus in the first century AD:

He that kicks a woman with child, so that the woman miscarry, let him pay a fine in money... as having diminished the multitude by the destruction of what was in her womb...but if she die of the stroke, let him also be put to death.[3]

The same interpretation is evident in the Talmud and has become authoritative in Orthodox Judaism. It is because of this interpretation of Exodus 21 that even conservative Orthodox Jews say that in Jewish law the unborn child does not have the status of a person. Where abortion is a sin, it is not the sin of homicide. Unsurprisingly, this interpretation is much quoted by modern advocates of 'reproductive choice'.

While many Jewish and Christian scholars find this interpretation persuasive, others point to difficulties. The word *yatsa* does not usually mean miscarriage. It is an ordinary word for giving birth (Genesis 25:26, 38:28; Job 3:11, 10:18; Jeremiah 1:5, 20:18). The more specific word for miscarriage (*shokol*) is not used in this passage. More fundamentally, the text does not state explicitly that the 'harm' refers only to harm to the woman, so on this key point the interpretation goes beyond the text.

Harm only to the 'formed' foetus?

A second ancient interpretation of this passage allows that 'harm' applies to the unborn child, but only after this child is 'formed'. The most influential

Greek translation of the Old Testament, the Septuagint, makes a distinction not between harm to the unborn child (a fine) and the woman (life for life) but between harm to the unformed embryo (a fine) and the formed foetus (life for life). The Jewish philosopher Philo, an older contemporary of Josephus, follows this interpretation:

If the child within her is still unfashioned and unformed, he shall be punished by a fine...But if the child had assumed a distinct shape in all its parts, having received all its proper and distinctive qualities, he shall die. [4]

How did the Septuagint come to translate the Hebrew word *ason* ('harm') by the Greek word *exeikonismenon* ('fully formed')? Many scholars have pointed to the influence of Greek philosophical ideas. For Aristotle, an unformed embryo was not yet a human being. If the foetus is 'fully formed' then miscarriage would harm a human being. However, if it is unformed then it is not yet human and so there is no serious harm. This seems to be the underlying idea.

The Greek translation was popular among Christians and shaped the first Latin translation. This encouraged Christians to make a moral distinction between the 'unformed' embryo and the 'formed' foetus, a distinction that was sometimes identified with 'ensoulment'. In recent times the Septuagint translation of this passage has been quoted by Christians arguing in favour of a 'gradualist' view of the status of the embryo. [5,6] Nevertheless, this interpretation clearly goes beyond the text, creating a moral distinction that has no basis in the Scriptures themselves. It should also be noted that this interpretation implies the passage pays no attention to the woman; the focus is only the foetus and its stage of development.

Harm to mother or children?

Ancient and medieval interpretations of this passage tended to follow either the Talmud or the Septuagint. However, at the time of the Reformation there was a renewed spirit of reading the words of Scripture without the lens of received traditional interpretation. It was in this context that Calvin decisively rejected both exclusive focus on the woman and exclusive focus on the stage of development of the foetus:

*This passage at first sight is ambiguous, for if the word death [*ie harm, *ason] only applies to the pregnant woman, it would not have been a capital crime to put an end to the foetus, which would be a great absurdity; for the foetus, though enclosed in the womb of its mother, is already a human being.* [7]

Calvin's interpretation applies harm to mother or children. This implies that the children might 'come out' and yet might not be seriously harmed. The delivery might not be a miscarriage. In this interpretation a fine would be imposed because of the assault on a pregnant woman and the danger it posed, even though it caused no serious or lasting harm.

In contrast, if mother or children were harmed the penalty would be 'life for life, eye for eye, etc'. Calvin's interpretation has influenced the New International Version and other modern versions that translate 'her children come out' as 'she gives birth prematurely'.

Faced with these three traditions of interpretation, the Christian should not start by asking which interpretation would be most convenient. Rather, we should ask who God intends to protect in this passage. The answer to this question should be informed by our reading of other scriptural passages.

A wealth of other passages

Until recent times, when Christians have reflected about the status of the unborn child they have rarely thought far beyond this one passage of Scripture, or they have preferred their moral intuition and natural reason to any use of Scripture. The wealth of the rest of the Scriptures has gone largely untapped. It was only in the late twentieth century, in the face of a dramatic rise in abortion, that Christians began to turn to a much wider range of texts to inform their beliefs.

Theologians now appeal not only to Exodus and the Commandments, but also, for example, to the many passages in the Scriptures which refer to God forming, naming and calling the child in the womb (eg Job 10:8-12; Psalm 139:13-16; Isaiah 44:1-2, 49:1-5; Jeremiah 1:5; Galatians 1:15).

The infancy narratives, especially the slaughtering of the innocents by Herod (Matthew 2:16-18), the presence of Jesus in the womb of Mary, [8] and the leaping of John the Baptist in the womb of Elizabeth (Luke 1:41-44) are also now invoked in the critique of the practice of abortion.

Theologians also relate abortion to the identification of Christ with 'the least' in society (Matthew 25:40) and to the parable of the Good Samaritan (Luke 10:29-37). Dare we say that the unborn child is not our neighbour? [9]

Not all of these other texts are equally relevant. Nevertheless, the broadening of the number and scope of texts discussed in relation to abortion is undoubtedly a positive thing. It encourages us to ask not simply what the Jewish law says about abortion, but where we see Christ in this situation – which is surely both in the mother and in her children.

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